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board of education, to require every child between fourteen and sixteen years of age who is regularly employed not less than six hours a day, to attend school at the rate of not less than four hours per week, during the school year. The course of study for these children must be approved by the board of education. The attendance must be during the day time between seven o'clock in the morning and six in the evening of any working day or days.

Another measure which will probably become a law raises the compulsory school age from fourteen to fifteen, for all children, and for illiterates from sixteen to seventeen. Attendance on a vocational school of children fourteen years of age is accepted as school attendance.

Rhode Island. Chapter 845 of the acts of 1912, grants state aid to the amount of one-half the operating expenses, to towns carrying on instruction in agriculture and training in the mechanic and other industrial arts, which are approved as to equipment, instruction, expenditure, supervision and conditions of attendance by the state board of education. The work of manual training high schools and other secondary schools, maintaining manual training departments, is specifically exempted from state grants under this act. Five thousand dollars is appropriated to meet the allotments of money under the Act.

New Mexico. Adopted a law, chapter 52, acts of 1912, which, while it does not grant money out of the state treasury for the benefit of vocational schools, did empower the state board of education to prescribe and adopt a course of study in industrial education for the public schools; required the teaching of this course in the schools, and authorized the appointment by the state superintendent of public instruction of a state director of industrial education, whose duties were defined in the statutes and whose compensation was appropriated.

C. A. PROSSER.¹

Workmen's Compensation: Since there is so much interest in workmen's compensation and employers' liability legislation, it may be well to give a brief historical sketch before outlining the more recent laws on the subject. Massachusetts took the first step toward a better system of dealing with industrial accidents by enacting in 1887 the first employers' liability law enacted in the United States.² This law was only partially successful while greatly increasing litigation. The first English compensation act of 1897 caused public

¹ Secretary National Society for the Promotion of Industrial Education.

² Mass. Laws of 1887, chap. 270.

interest to be taken in the subject, and Maryland enacted the first compensation statute in 1902.¹ This act was held invalid by the court of common pleas of Baltimore, April 28, 1904, so that no opportunity was afforded to determine how the law would operate. No further law was enacted until 1909, when Montana passed a law which applied to employees in coal mines only. This law was likewise held invalid (44 Mont. 180). In 1910, New York passed two laws relating to compensation of injured employees. One of these was elective and applied to all employers of labor, the other being compulsory and applicable only to certain hazardous industries. The compulsory law was held unconstitutional by the court of appeals (201 N. Y. 171), but the elective law is still in force. In 1911, ten States, California, Illinois, Kansas, Massachusetts, Nevada, New Hampshire, New Jersey, Ohio, Washington and Wisconsin, and in 1912, four States, Arizona, Maryland, Michigan and Rhode Island, enacted laws on the subject. A previous article² gave a synopsis of the laws of California, Kansas, New Hampshire, New Jersey, Ohio and Washington. Commissions have been appointed to investigate the subject of employers' liability and workmen's compensation and to draft laws in Colorado, Connecticut, Delaware, Iowa, Missouri, Nebraska, North Dakota, Oregon, Pennsylvania and West Virginia. All, or nearly all, of these have submitted reports with drafts of laws for the legislatures which met this year, and laws have already been enacted in West Virginia, Oregon and Colorado, and possibly a few other States. In addition to the above, the matter has been under consideration by state officials or unofficial bodies in Louisiana, Oklahoma, Maine and Texas. With few exceptions, the laws enacted have followed an investigation and report of a commission appointed for the purpose of investigating the subject. During the past three years, commissions or officials have made reports in the following States: New York, Massachusetts, New Jersey, Illinois, Ohio, Minnesota, Iowa, Connecticut, Washington, Wisconsin, Oregon, Pennsylvania and West Virginia.

A very important conference of state commissions was held in Chicago, November 10 to 12, 1910, as a result of which two acts were drawn representing the opinions of the delegates. The results of this conference have done much to influence the character of legislation in the several States which have enacted compensation laws.

¹ Md. Laws of 1902, chap. 139.

² AM. POL. SCI. REV., November, 1911.

*Arizona.*¹ The Arizona law became effective September 1, 1912, and is one of the few laws which is compulsory. It applies to certain "especially dangerous" employments enumerated in the act. It is declared to be against public policy for any employer to fail to exercise due care to insure the safety of his employees, or for the employees to have to bear the burden of loss due to accidents. The common law doctrine of no liability without fault is abrogated as to the employments mentioned in the act. All injuries due to accidents in the employments enumerated are covered except those which do not result in more than two weeks' disability. No provision is made for medical attendance except in fatal cases nor is there any mention of alien non-resident dependents. Employers and employees may make contract for compensation outside of the act if it is equal to that provided by the act. The law also permits the employer or employee to reject any settlement and to retain their rights under other laws. Employers and employees in employments not included in the act may by agreement accept the provisions of the act. The act is declared to be remedial in its purpose and is to be construed and applied to secure promptly and without burdensome expense to the workmen the compensation provided. The amounts of compensation are: For total incapacity to work extending beyond a period of two weeks, 50 per cent of his average semi-monthly earnings, to be paid semi-monthly to the injured workman during disability, but not exceeding \$4000. The payments date from time of accident. For partial disability, the semi-monthly payments are to equal 50 per cent of the loss of earning capacity but not to exceed the maximum amount of \$4000. For death, resulting from accident within six months thereafter, 2400 times one-half the daily wages of the decedent, but not more than \$4000, is payable to the personal representative of the deceased, to be held in trust and applied to the support of the widow and children, or in the absence of such dependents, to the support of "a father or mother or sister dependent on him for support." If there are no dependents, the employer must pay the reasonable medical and funeral expenses. Provision is made for the examination of the injured workman by a competent doctor, each party being allowed to have a medical representative. Notice must be given the employer of accident where same is not fatal and compensation cannot be claimed until such notice is given, but defect or inaccuracy in notice is not a bar to recovery.

¹ Chap. 14, Special Session, 1912.

All questions arising under the act may be determined: (1) by written agreement between the parties, (2) by arbitration, or (3) by submission to the attorney-general of the State. In case the parties fail to reach agreement by either of these three methods, the controversy may be determined by a suit at law.

*Illinois.*¹ It is optional with the employer and the employee whether the compensation provided by the act is applicable or not, but if the employer does not elect to accept the act, he cannot use as a defense in an action brought by injured employee: (1) That the employee assumed the risks of the employment; (2) that the injury was caused by the negligence of a fellow servant; (3) that the injury was due to contributory negligence. Unless the employer files a written notice with the state bureau of labor statistics to the contrary, he is presumed to have accepted the provisions of the act. The act applies to all injuries (except those deliberately self-inflicted) in certain hazardous employments enumerated and became effective May 1, 1912. There is a waiting period of seven days, with medical expenses not exceeding \$200 for eight weeks. If the employee has accepted the provisions of the act, he cannot recover damages for injury under any common law or statutory right other than the compensation provided in the act, unless the injury is caused by the intentional omission of the employer to comply with a statutory safety regulation. The amounts of compensation are as follows: For death, a sum equal to four times the average annual earnings of the deceased employee, but not less than \$1500 nor more than \$3500, is to be paid to dependent widow, children, parents or other lineal heirs. If collateral heirs are dependent on his earnings, a proportional amount is to be paid them. The amounts are to be paid at the same intervals at which the deceased employee was paid, or weekly, at the rate of one-half the average wages. If no dependents, funeral expenses not exceeding \$150 are to be paid. For total disability, 50 per cent of his wages, not less than \$5 nor more than \$12 per week, for a period of eight years or until \$3500 has been paid, after which time 8 per cent of the death benefit is payable for life in monthly instalments of not less than \$10 each. There is a partial enumeration of injuries which shall be considered as permanent disabilities. For partial disability there is a weekly payment proportional to the employee's loss of wages, not, however, to exceed the death benefit. In case of a disfigurement to the hands

¹ Laws of 1911, p. 314.

or face, without resulting disability, the arbitrators may award suitable compensation not exceeding one-fourth of the death benefit. The basis for computing the annual earnings is contained in the act, as are the usual provisions for medical examination and notice of accident. Controversies arising under the act are determined by three arbitrators, one chosen by each of the parties and the third by the judge of the county court. An appeal can be taken from the decisions of the arbitrators to the court, where a trial by jury may be claimed. The law requires all employers in employments subject to the act to report to the state bureau of labor statistics all fatal accidents and such others for which compensation is paid as results in more than a week's loss of time. It is provided that the invalidity of any portion of the act shall in no way affect the validity of any other portion thereof which can be given effect without such invalid part.

*Maryland.*¹ The Maryland law which became effective April 15, 1912, is voluntary on the part both of the employer and employee. It legalizes for both the making of an insurance contract against an accident resulting in personal injury or death. By this the employer is relieved from liability which he would bear but for the contract. The insurance must be effected in some casualty company authorized to do business in Maryland, unless the employer has at least 1500 employees. In that case he may establish an insurance fund from the sums contributed by himself and his employees. If that be done, however, the employer must agree to make up any deficiency which may arise from the inadequacy of such fund. The insured employees also have the right to elect an advisory committee which is to be kept informed regarding the state of the insurance fund, with the power to examine the books. The insurance commissioner is to have the same power to examine the books of such funds as he now has regarding the books of insurance companies. In fact, the commissioner may become the depository of the securities in which such funds are invested.

The accident insurance provided for in the law covers the risk of personal injury by accident resulting in death, provided death occurs within twelve months, or resulting in disability, whether it be total or partial, permanent or temporary. It is provided, however, that no one shall be entitled to benefit where the injury is the result of the employee's intoxication or there is a deliberate intention to produce such injury. The insurance, in case of death, is for the benefit of the

¹ Laws of 1912, chap. 837.

widow, widower, father, mother, son, or daughter, who is dependent wholly or in part upon the earnings of such employee.

The benefits provided in case of death equal the wages of the employee during a period of three years preceding the accident but not less than \$1000. If not employed for a period of three years, then the benefit shall be 156 times his average weekly earnings during the period of such employment. The above benefits go to those dependent wholly upon his wages. Other arrangements are made for those only partly dependent. As to injuries resulting in total disability, a weekly payment is to be made during such disability equal to at least 50 per cent of his average wages during the previous twelve months. Where the injury results in partial disability, weekly payments shall be made during such period equal to the difference between the weekly benefit payments during the period of total disability and the average amount which the injured person is able to earn.

*Massachusetts.*¹ The Massachusetts law went into effect July 1, 1912. It is an elective compensation law, but all employers of persons other than domestic servants or farm laborers are subjected to an increased liability if they do not accept it. Provision is made that insurance must be taken out in the Massachusetts Employees Insurance Association, a mutual company on the German plan, or in a liability company. All injuries received in the course of employments, except those due to the wilful misconduct of the injured employee, are covered by the act. Massachusetts has introduced a new feature, however, by providing that where the injury is due to the serious and wilful misconduct of the employer, or of his superintendent, the amounts of compensation are doubled. The commission states that, if the English decisions as to the meaning of "serious and wilful misconduct" in the 1897 act are followed, the penalty of a double compensation will be imposed on employers who fail to comply with statutory safety regulations. It is also stated by the commissions that it only seemed equitable to impose a double liability where injury was due to wilful misconduct of the employer, since similar conduct on the part of the employee released employer from any liability whatever. A waiting period of two weeks is provided, but medical attendance during this time is required. The act also provides that those who are usually in fact dependent shall be conclusively presumed to be so in order to avoid litigation. Compensation is provided as

¹ Laws of 1911, chap. 751; of 1912, chap 172 and 571.

follows: For death, a weekly payment to dependents of 50 per cent of the average weekly wages of the deceased, with minimum and maximum of \$4 and \$10 per week, for three hundred weeks (total minimum and maximum being \$1200 and \$3000), with proportionate amounts for partial dependents. When there are no dependents, expenses of last sickness and burial, not exceeding \$200, are to be paid. For total disability, 50 per cent of average weekly wages, not less than \$4 nor more than \$10 per week, for five hundred weeks, but not to exceed \$3000. For partial disability, 50 per cent of the loss of earning capacity, but not more than \$10 per week for three hundred weeks. In addition to the compensation as stated above, the act contains a list of specified injuries for which additional payments must be made, the amount being specified for each injury. For example, for the loss of both hands at or above the wrist, 50 per cent of the average weekly wages, not more than \$10 nor less than \$4 per week, for a period of one hundred weeks. In an injury of this kind, the injured employee would receive from \$400 to \$1000 in addition to the other compensation to be received. An industrial accident board of five members is created to supervise the operation of the act. Employers are required to report all accidents to this board. Controversies are determined by an arbitration committee under the chairmanship of a member of the board, the other two members being chosen by the parties. An appeal is allowed to the entire board whose determination of facts is final. Questions of law may be taken to the supreme judicial court. The Massachusetts commission followed the language of the English act of 1897 whenever possible, in order to avoid litigation as to meaning of phraseology. The justices of the supreme judicial court of Massachusetts, in an opinion to the state senate, July 24, 1911, pronounced the law constitutional.

*Michigan.*¹ The Michigan law went into effect September 1, 1912. It is elective, but with the added requirement that the employer shall provide for the payment of compensation in one of the four ways mentioned in the act. The law applies to all employees, except domestic servants and farm laborers. The act abolishes the old defenses of negligence (unless wilful), fellow-servant and risk of employment. A somewhat unusual feature is that public employees (of the State, city, etc.) are included. The four ways by which an employer may provide for compensation are: (1) Furnishing satisfactory proof

¹ Session 1912, house enrolled Act no. 3.

to the industrial accident board of his solvency and financial ability to pay the compensation as required by the act. (2) Insuring against liability in employers' liability company (stock company). (3) Insuring in employers' liability association (mutual company). (4) Subscribing to a state fund under the administration of the insurance commissioner, the details of which are prescribed.

There is a waiting period of two weeks, but compensation for these two weeks is to be made to one who is incapacitated for eight weeks. Medical attendance is required for the first three weeks. The compensation in case of death is 50 per cent of the average weekly wages of the deceased, with \$4 and \$10 as the minimum and maximum payments per week, for three hundred weeks for dependents, and proportionate amounts for those partly dependent. With no dependents, the expenses of last sickness and burial up to \$200. For total disability, the payment is 50 per cent of average weekly wages, not less than \$4 nor more than \$10 a week, for five hundred weeks, with total maximum of \$4000. For partial disability, 50 per cent of the loss of earning capacity, not exceeding \$10 a week, for three hundred weeks. In addition to the above, there is a long list of injuries for which the amounts of compensation are specified. An agreement by an employee to waive his rights to compensation under the act is made invalid. The law creates an industrial accident board of three members. Controversies are to be determined by an arbitration committee constituted in same manner as in Massachusetts. The powers of the industrial accident board are very similar to those of the Massachusetts Board, and on the whole there is quite a similarity between the Michigan and Massachusetts laws. All employers are required to report all accidents to the board.

HORACE E. FLACK.